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## Hawaiian Gazette.

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W. N. ARMSTRONG, EDITOR.

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## NO CHINESE CAN ENTER

Important Decision By the  
Supreme Court.

SAYS HAS NOT JURISDICTION

Chief Justice Dissents—Opinion  
Sustains the One Federal Off-  
icer Here, Resolution, Effect

IN THE SUPREME COURT OF THE  
HAWAIIAN ISLANDS.

December Term, 1898.

In the matter of the petition of Wong  
Tuck, Ah Muk, See Yan, Ah King, Hoo  
Poo and wife, Ah See, Kai Lin, Chun  
Yee (a woman), and her daughter, Lok  
Sain, Ah In and wife, Ah Tai, alias Ah  
Fai, Chew Sing, Ah See (a woman), E.  
Pong, Chun Yit Mung, Ah Kong, and Lum  
Tuck Chang, for a writ of habeas cor-  
pus.

In the matter of the petition of Luke  
Kru, Ma Nin, Ma Sing, and Choy Fo for  
a writ of habeas corpus.

In the matter of the petition of Leong  
Chee, Cheong Yook, Yen Lin, Yen Chong,  
Yen Yick, Yen Moon, Yen Bow, and Lu  
See, for a writ of habeas corpus.

ORIGINAL.

Submitted December 2, 1898. Decided Janu-  
ary 6, 1899.  
Judo, C. J., Whiting, J., and Circuit Judge  
Ferry, in place of Chief Justice, absent.

Every sovereign nation has the inherent  
right to deny to aliens the privilege of  
entering its territory and even to expel  
them therefrom.

It is also the right of every independ-  
ent state to prescribe the conditions upon  
which it will admit aliens into its terri-  
tory and further to revoke at will a per-  
mission or license already granted to an  
alien to enter, and this, too, without  
notice to such alien of its intention to  
thus revoke the license.

The Joint Resolution passed by the  
Congress of the United States on July 6,  
1898, relating to the Annexation of the  
Hawaiian Islands, provided, inter alia, that  
"there shall be no further immigration  
of Chinese into the Hawaiian Islands, ex-  
cept upon such conditions as are now or  
may hereafter be allowed by the laws of  
the United States." Held, that by virtue  
of this provision the United States laws  
relating to the immigration and exclusion  
of Chinese were extended to and put in  
force in the Hawaiian Islands, and that  
the Chinese, whether residing in this  
country or not prior to July 7, 1898, to  
whom permits to enter the Hawaiian Is-  
lands were issued prior to said date by  
the Hawaiian Government, are not ex-  
cepted by the Resolution, from the opera-  
tion of the United States laws, but are  
also subject to the provisions thereof.

This Court is not a court of the United  
States and has no jurisdiction in habeas  
corpus proceedings, or otherwise to pass  
upon the validity of the appointment of  
a Federal officer or the extent of his pow-  
ers under Federal laws, or the legality of  
the detention by him under such laws of  
persons who claim to be illegally in such  
custody.

THE OPINION.

The record thus shows that some of the  
petitioners resided in these islands prior  
to July 7, 1898, and with the intention  
of returning and possessing permits to re-  
enter, issued prior to said date and that  
the other of the petitioners have been re-  
siding in this country, but also pos-  
sess permits to enter, issued prior to  
said date.

The main issue raised by the pleadings  
is whether or not the laws of the United  
States relating to the immigration and  
exclusion of Chinese were extended to the  
Hawaiian Islands by the terms of the  
Joint Resolution passed by Congress on  
July 6, 1898, and signed by the President  
on the day following, and otherwise called  
the "Newlands Resolution."

Before entering upon the consideration  
of the question of what it is that Congress  
has enacted by that Resolution, we quote  
the "Newlands Resolution," which refers to  
Chinese immigration, it is well to observe  
the extent of the power conferred upon  
Congress in the matter of the exclusion and  
expulsion of foreigners.

It is a fundamental principle that every  
sovereign nation has the inherent right to  
deny the aliens the privilege of entering  
its territory and even to expel them there-  
from. This principle has been recog-  
nized and affirmed in clear and unmis-  
takeable language by the Supreme Court  
of the United States. Chae Chan Ping  
vs. United States, 130 U. S. 581, 10  
S. Ct. 597, 34 L. Ed. 392. The power of the  
Government to exclude foreigners from the  
country whenever, in its judgment, the  
public interests require such exclu-  
sion, has been asserted in repeated in-  
stances, and never denied by the execu-  
tive legislative departments, and quoted  
with approval that the language of  
United States executive officials, who  
wrote, "Every society possesses the un-  
doubted right to determine who shall  
compose its members, and it is exercised  
by all nations, both in peace and in war."

It may always be questionable  
whether a resort to this power is war-  
ranted by the circumstances, or what de-  
partment of the Government is empow-  
ered to exert it, but there can be no doubt  
that it is possessed by all nations, and  
that each may decide for itself when the  
occasion arises demanding its exercise.

"The control of people within its limits,  
and the right to expel from its territory  
persons who are dangerous to the peace  
of the State or to the safety of its people,  
are essential attributes of sovereignty to  
be seriously contested." Again, in the case  
of Nishimura Ekin, 142 U. S. 656, 12  
S. Ct. 1093, 37 L. Ed. 1093, the Supreme  
Court said: "It is an accepted max-  
im of international law, that every  
sovereign nation has the power, as in-  
herent in sovereignty, and essential to  
self-preservation, to forbid the entrance  
of foreigners within its dominions, or to  
admit them only in such cases and upon  
such conditions as it may see fit to pre-  
scribe."

"The right of a nation to expel or de-  
port foreigners, who have not been natu-  
ralized or taken any steps toward be-  
coming citizens of the country, rests up-  
on the same grounds, and is as absolute  
and unqualified as the right to prohibit  
and prevent their entrance into the coun-  
try."—Pong Yue Ting vs. United States,

## A FAR-REACHING DECISION FOR A BIG SHOW

Chamber of Commerce to Look  
Into the Matter.

SOME BENEFITS IN SIGHT

Would Attract Investors—Business  
People Could Meet—A  
Few Possibilities.

A couple of the Chas. T. Wilder let-  
ters concerning the project for an Ha-  
waiian-American Exposition in this  
city the coming summer, will be re-  
ferred to the Chamber of Commerce,  
and that body will likely hold a meet-  
ing during the week to consider them.  
A number of prominent business men  
spoken to on the subject yesterday  
were not especially enthusiastic over  
the enterprise, but all expressed will-  
ingness to encourage the same and  
the most conservative believed that it  
could be made a success locally—that  
is, the expenses could be met, if the  
affair was properly managed, by the  
gate receipts.

Mr. Atherton, president of the  
Chamber of Commerce, said that some  
of the producers and exporters of the  
States appeared to believe that Hawaii  
was very far behind the time indus-  
trially and commercially, whereas, the  
leading concerns here have always  
been apt and ready in search for im-  
provements and markets to meet local  
calls. Mr. Atherton believes that some  
benefit would accrue to the men on the  
Mainland who would show goods here.  
In any event closer relations would be  
established and perhaps better under-  
standings reached. Naturally it is ex-  
pected that in the future the trade with  
the coast will increase. The president  
of the Chamber of Commerce men-  
tioned two things important in trade  
that factors of the Mainland have for  
years allowed island consumers to  
import from England and Germany.  
These are steam plows and galvanized  
iron. Quite lately some galvanized iron  
has been brought from the United  
States and a plan is afoot, as men-  
tioned in this paper a few weeks ago,  
to have steam plows for the planta-  
tions manufactured at Springfield, O.  
Orders have been placed there by one  
or more of the plantations. At the  
same time steam plows to the value,  
including freight, of \$70,000, have been  
ordered from here within the past six  
months.

It is the opinion of all who have  
given expression in the premises that  
the islands would be vastly benefited  
by the proposed exposition. A good  
many excursions would be brought  
from all over the United States. The  
travelers would be well repaid for their  
expenses and at the same time  
would leave some money in the town  
and at other places of the group. There  
would be a few of the usual show  
hangers on, but the bulk of the visitors  
would be persons of means and intelli-  
gence. The showing that could be made  
for the islands would be an impressive  
one. Hawaiian exposition possibilities  
are practically without limit. Every  
island and every community would  
contribute and the spirit of rivalry  
would tend to produce some surpris-  
ing results. Native products would be  
seen that are unthought of in ordi-  
nary considerations. The visitor would  
go away mastered with the idea that  
in Hawaii there was something be-  
sides sugar and flowers and a volcano.  
Rice and coffee and taro and all the  
fruits and vegetables would have their  
innings. To some of the visitors there  
would doubtless come industrial sug-  
gestion that followed out would bring  
profit that had not been dreamed of by  
home people. The arts and music and  
the drama could be exploited. Old and  
new Hawaii could be contrasted. There  
might be games and presentation of  
historical tableaux. All these things  
would contribute to the attractiveness  
that must exist to insure attendance  
from throughout the group.

The building and the time for the  
exposition are important matters. As  
remarked before, it would be neces-  
sary to erect a pavilion or palace and,  
of course, it should be in a location  
easy of access. It would be of frame  
and not costly. The time hinted by  
Mr. Wilder is early the coming sum-  
mer. This is likely too soon, but the  
affair cannot be put off till next year,  
for it will not do to have the new  
territory of Hawaii get the United  
States into trouble by giving a 1900  
exposition and making the Paris show  
a failure. It is too soon after the ten-  
sion incident to the war to do anything  
of this sort, for the United States and  
France are getting quite friendly again.  
It is believed by those who have given  
some thought to the subject that if  
work begins at once the first Hawai-  
ian exposition can be held in the fall  
of this year. When that decision is  
reached color schemes and plans for  
temporary hotels will be in order.

Fifty Tins of Opium.  
Deputy Marshal Chillingworth made  
the first good opium haul of the year  
early last evening. The officer had for  
some time been watching a stranger

applies to petitioners would cause great  
injustice and oppression because peti-  
tioners had no money to pay for the  
strength of permits issued as above stated  
and without notice of the repeal of  
Hawaiian laws.

If Congress had simply said, "There  
shall be no further immigration of  
Chinese into the Hawaiian Islands," or  
what the Hawaiian Government has done  
shall be allowed to enter the Hawaiian  
Islands," it seems to me that there could  
have been no room to doubt but that the  
provision would prevent any and every  
case from entering the Hawaiian Islands,  
whether former residents or not and  
whether they entered prior to July 7,  
1898, or thereafter. Congress did not  
say so. It said, "There shall be no fur-  
ther immigration of Chinese into the  
Hawaiian Islands," and that is the law.

Such language though very brief,  
is clear and explicit, and would  
not admit of any construction. It is  
not a mere suggestion, and it is not  
subject to the construction that it  
shall be allowed to enter the Hawaiian  
Islands, "except upon such conditions as  
are now or may hereafter be allowed by  
the laws of the United States." Con-  
gress has in these words excluded all  
Chinese from the Hawaiian Islands, and  
has not left any room for the possibility  
that certain Chinese may hereafter be  
permitted to enter. Congress did not  
say so. It said, "There shall be no fur-  
ther immigration of Chinese into the  
Hawaiian Islands," and that is the law.

The Hawaiian laws in force just prior  
to the passage of the Resolution, au-  
thorized the Government to issue permits  
to Chinese to enter these islands in three  
classes of cases; first, to those who, re-  
siding in the country before, but who  
wished to return here temporarily, to a  
limit of such sojourn being fixed at six  
months; and third, to laborers, who, also,  
had never before been in the country, and  
who were permitted to remain in the  
country for an indefinite period upon con-  
dition only that they confine themselves  
here to certain specified occupa-  
tions. A bond was required in the  
second class, conditioned that the principal  
would leave the country at or before the  
expiration of the six months, and in the  
third class conditioned for the faithful  
performance of the undertaking as to oc-  
cupation. See Penal Laws of 1897, p. 204  
et seq. Had the Hawaiian Government  
issued, shortly before July 7, 1898, and  
before the Resolution was passed, such  
permits for a large number of Chinese  
of the third class, it could not be  
successfully contended, as I believe, that  
it was not the intention of Congress to  
revoke all such permits and to prevent  
their holders from entering these islands.  
Other matters were, by the terms of the  
Resolution, expressly continued in ex-  
isting, until Congress should otherwise  
provide; but it is apparent that, in view  
of the law-making power, and not for  
reference to Chinese, Congress wished to  
put an end at once to the entry of Chi-  
nese into these islands under any con-  
dition other than those prescribed by  
United States laws. And if it was the  
intention of Congress to exclude laborers  
of the third class, it is not to be held  
that it was not its intention to ex-  
clude those of the first or second class, or  
of both those classes. It is the fact that they hold  
permits, if anything at all, which would  
give them the right to enter, and yet all  
three classes alike hold such permits. It  
is not the fact of justice or injustice  
which would give them the right to land,  
for those are considerations which it is  
for the law-making power, and not for  
the Court, to weigh. Uncertainty in the  
law would be the result if the Court were

named Gallagher, reported to have at  
one time been a member of the crew of  
the S. S. Australia. Chillingworth  
caught Gallagher in a back yard last night  
and found the baggage to be twenty-  
five pounds of California opium. The  
driver of the vehicle was one Costello,  
who averred that he was engaged by  
Gallagher on Hotel street and did not  
know where the opium was coming  
from or to what point it was to be  
taken. Gallagher is in jail. Costello  
was released on his own recognizance.  
Bail for Gallagher was fixed at \$500.  
He made no effort to secure it and  
said last night that he did not care to  
see an attorney. The officers state that  
Gallagher was some time since arrested  
on Kauai while peddling opium and  
fined \$250.

A New Corporation.

The Chas. M. Cooke Company, Ltd.,  
has been incorporated, with a capital  
of \$500,000 and with this membership:  
Chas. M. Cooke, Anna C. Cooke, C. M.  
Cooke, Jr., C. H. Cooke, A. Frank  
Cooke, F. J. Lowrey and J. B. Ather-  
ton. The company is to do a general  
business in the way of handling realty  
and stocks and is formed principally  
to facilitate certain estate manage-  
ment.

HONOLULU HARBOR.

(San Francisco Adv.)

PROPOSALS.—Construction  
of wharves and excavation of  
slips, etc., at coaling station,  
Honolulu, Hawaiian Islands.—  
Sealed proposals, in duplicate,  
indorsed "Proposal for the con-  
struction of wharves and the  
excavation of slips in the har-  
bor of Honolulu, Hawaiian  
Islands," will be received at the  
Bureau of Equipment, Navy  
Department, Washington, D. C.,  
until 12 o'clock, noon, on FRI-  
DAY, January 20, 1899, and pub-  
licly opened immediately  
thereafter, for the construction  
of wharves and excavation of  
slips, etc., at Honolulu, Hawai-  
ian Islands. Plans, specifica-  
tions and blank forms of pro-  
posals will be forwarded upon  
application to the bureau, where  
further information may be ob-  
tained. The right is reserved  
to reject any or all bids and to  
waive any defects. R. B. BRAD-  
FORD, Chief of Bureau.

YOUNG MEN IN JAIL.

Strangers Accused of Selling Bad  
Paper.

Two young men comparatively new  
to Honolulu, are in detention at the  
station house on a serious charge.  
They are accused of being gross cheats  
and the specification alleged is that  
they have been getting money on  
worthless checks. Three pieces of  
paper are said to have been uttered by  
the pair, all payable by Bishop & Co.,  
who, however, do not carry the names  
—H. F. Soper and N. P. Plunkett. The  
victims represented or on the list in-  
clude keepers of beach resorts, hack-  
men and a Japanese merchant.  
Plunkett came to town from a Ha-  
waii plantation a few weeks ago and  
has figured as a sport. At the Orpheum  
one night he tossed money on the stage  
to the female impersonator. He has  
been drinking a good deal right along.  
H. F. Soper—not related to the Hon-  
olulu Sopers—is a young doctor and  
up to the time of his arrest had made  
a good many friends around town. He  
is a Californian. Dr. Soper is quite  
boyish in appearance, but was on the  
staff of physicians at the main mili-  
tary hospital on King street and at the  
Buena Vista hospital.

SPECIAL ELECTION.

A Successor to Senator Schmidt  
to Be Chosen.

It was decided by the Cabinet some  
days ago to have a special election on  
this island to fill the vacancy in the  
Oahu Senatorial delegation made by  
the resignation of H. W. Schmidt, who  
gave up the place to resume his duties  
as a consul. Somehow the fact that  
the vacancy was to be filled was not  
given out till yesterday morning. It  
was explained by a member of the  
Cabinet that there was some delay in  
reaching the conclusion, as in all prob-  
ability the Legislature would cease to  
exist when laws for Hawaii were made  
at Washington. It is anticipated,  
however, that there may be required,  
towards the midsummer, a special ses-  
sion of the Legislature, or at least of  
the Senate, for the purpose of trans-  
acting some business suggested from  
Washington. The election will be held  
February 24.

Japanese Killed.

A fatal house moving accident oc-  
curred on Nuuanu a short distance  
above Vineyard early Saturday fore-  
noon. Some Japanese were doing the  
job and used light timbers. The lower  
works collapsed. One man was killed,  
one seriously injured and two others  
considerably bruised. There will be a  
coroner's inquest.